

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:)	
)	
Review of the Emergency Alert System;)	
)	
Independent Spanish Broadcasters)	EB Docket No. 04-296
Association, the Office of Communication)	
Of the United Church of Christ, Inc., and the)	
Minority Media and Telecommunications)	
Council, Petition for Immediate Relief)	

To: David S. Turetsky, Chief
Public Safety and Homeland Security Bureau

PETITION FOR TEMPORARY WAIVER

Pursuant to 47 C.F.R. § 1.3 and 47 C.F.R. § 11.52(d)(4), this petition is submitted on behalf of Cequel Communications, LLC d/b/a Suddenlink Communications (“Suddenlink” or the “Company”) to request temporary waivers for twelve of its very smallest and most remote cable systems (the “Remote Systems”) from compliance with the Emergency Alert System (“EAS”) requirements in Section 11.56 of the Commission’s rules. Section 11.56 requires EAS Participants to be able to receive alerts formatted with the Common Alerting Protocol (“CAP”).¹

¹ The deadline for CAP compliance was adopted in the Commission’s *EAS Fourth Report and Order*. See Review of the Emergency Alert System; Independent Spanish Broadcasters Association, The Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief, EB Docket No. 04-296, *Fourth Report and Order*, 26 FCC Rcd 13710 (2011) (“*EAS Fourth Report and Order*”). In its *EAS Fifth Report and Order*, the FCC revised its Part 11 Rules to specify the manner in which EAS Participants must be able to receive alert messages formatted in the CAP. See Review of the Emergency Alert System; Independent Spanish Broadcasters Association, The Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief, EB Docket No. 04-296, *Fifth Report and Order*, 27 FCC Rcd 642 (2012) (“*EAS Fifth Report and Order*”).

Suddenlink respectfully seeks six month waivers for these twelve sites because they still do not have broadband Internet access, and therefore are not capable of reliably receiving CAP-formatted alerts. Suddenlink's engineering staff continues to evaluate broadband options, and is now focused on a new satellite option, but there is currently no viable means to bring these very remote systems into immediate compliance.

I. Suddenlink's Most Remote Systems Do Not Have Broadband Internet Access

Suddenlink has conducted extensive research on how to best obtain broadband Internet at its twelve smallest and most distant cable headends. Accordingly, this waiver request applies to just 5,777 subscribers, or less than 0.5% of Suddenlink's 1.25 million subscribers. Nearly all of Suddenlink's customers were capable of receiving CAP-formatted messages by the Commission's June 30, 2012 deadline, and over the last year, Suddenlink worked diligently to bring an additional 58 remote cable systems into CAP compliance.² As a result, approximately 99.5% of Suddenlink's subscribers can now receive CAP-formatted EAS alerts.

Suddenlink's engineers initially determined that these twelve headends included in this Petition for Waiver are too far from the closest DSLAMs to have an effective DSL broadband connection. The distances between each of these headends and the closest DSLAM would reduce data speeds to a point that EAS-CAP messages would be ineffective. Moreover, in the last several months, Suddenlink's engineers have been in contact with representatives from Trilithic,³ the manufacturer of Suddenlink's EAS equipment, but they have been unable to

² See Petition for Temporary Waiver, EB Docket No. 04-296 (filed June 19, 2013); Minor Amendment to Petition of Cequel Communications, LLC for Temporary Waiver, EB Docket No. 04-296 (filed June 28, 2012) (jointly "Initial Petition"). See also Petition for Temporary Waiver, EB Docket No. 04-296 (filed Dec. 26, 2012) (advising the Commission that 58 cable systems now comply with Section 11.56 of the Commission's EAS rules) ("Renewed Petition")

³ Suddenlink's most recent contact with Trilithic was on June 17, 2013.

identify a wireless EAS solution that they believe will provide consistent, uninterrupted coverage at a reasonable cost.

The adoption of a satellite solution at any of the twelve Remote Systems has been similarly problematic. Suddenlink initially pursued a satellite-based solution with HughesNet, which it anticipated would be a cost-effective solution for obtaining broadband Internet connectivity at the Remote Sites. However, Suddenlink's engineers determined that HughesNet was not a suitable match for Suddenlink's needs regarding broadband connectivity. Suddenlink is now in active discussions with Communications Laboratories ("ComLabs") to explore whether EMNet will provide a workable satellite solution for obtaining broadband connectivity and transmitting CAP-formatted EAS alerts.

Suddenlink estimates that its first year expenses for obtaining broadband at these twelve locations will significantly exceed \$70,000.⁴ This is a significant investment for systems serving less than 0.5% of Suddenlink's overall subscribers. Although Suddenlink is committed to bringing these last twelve Remote Systems into full compliance with the Commission's CAP requirements, it believes that a 6 month waiver is warranted in order to ensure that its investment is directed toward a reliable solution that will provide for uninterrupted and timely receipt of CAP EAS messages.⁵

⁴ Start-up costs for the first year for 12 cable headends are expected to include approximately \$9,000 in hardware, installation and activation costs, \$14,400 in service fees and \$49,200 for new EASyCAP units.

⁵ Suddenlink notes that its engineers reported from the field that satellite technology employed for other uses has proven unreliable at these 12 Remote Sites. For example, some headends report up to 70% "downtime" for satellite communications due to signal latency, rain attenuation and other complications. In view of these complications, Suddenlink submits that additional time is warranted to test EMNet as a viable satellite solution.

II. There is Good Cause to Grant a Temporary Waiver

Pursuant to Section 1.3, the Commission may waive its rules for good cause shown.⁶ The Commission may also exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest, and grant of a waiver would not undermine the policy served by the rule.⁷ Suddenlink respectfully submits that there is good cause to grant the temporary relief requested here.

In its *EAS Fifth Report and Order*, the Commission identified broadband Internet as the “primary method for distributing CAP messages.”⁸ The FCC further recognized that “the physical availability of broadband Internet access would be a physical predicate for compliance with the requirement that EAS Participants be able to receive CAP-based alerts.”⁹ Recognizing that some cable systems would be unable to comply with the requirements in Section 11.56 due to lack of broadband Internet access, the FCC concluded that “the physical unavailability of broadband Internet service offers a presumption in favor of a waiver.”¹⁰

In view that 99.5% of its subscribers already have access to CAP-based alerts, Suddenlink submits that there is good cause to grant waivers to its twelve most remote cable headends listed in Appendix A because they currently lack the broadband Internet access necessary to comply with Part 11 of the Commission’s rules. As discussed above, Suddenlink is working to ascertain the best means to obtain broadband Internet and bring these remote cable

⁶ 47 C.F.R. 1.3. *See also Northeast Cellular Telephone Co. L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“FCC has authority to waive its rules if there is good cause to do so.”).

⁷ *See WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *aff’d* 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972).

⁸ *EAS Fifth Report and Order* at ¶152.

⁹ *Id.*

¹⁰ *Id.*

systems into compliance with the Commission's CAP requirements. Unfortunately, Suddenlink's engineers determined that DSL and wireless solutions are unworkable. The Company also unsuccessfully pursued a satellite solution with HughesNet. Suddenlink is now in discussions to obtain satellite broadband via ComLab's EMNet, but it needs additional time to put a solution into place. Nevertheless, the subscribers at these Remote Systems already have access to timely and effective emergency warnings through the legacy EAS equipment that is installed and fully operational at each of these remote locations.

III. Conclusion

Suddenlink submits that it has shown good cause to grant waivers to twelve of its cable systems. More than 99.5% of Suddenlink's subscribers are capable of receiving CAP-formatted EAS messages. However, the Company continues to evaluate how best to bring its twelve Remote Sites into compliance with the requirement to receive CAP-formatted messages, but broadband Internet access is currently not available at these locations. These locations do, however, all have access to emergency warnings through legacy EAS equipment.

Respectfully submitted,

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June 28, 2013

CERTIFICATION

I, Eric Eby, hereby certify that statements made in the foregoing Petition for Temporary Waiver are made in good faith and are true and correct to the best of my knowledge, information and belief.


Eric Eby
Suddenlink Communications

Dated: June 27, 2013

Appendix A

Suddenlink Systems Seeking 6 Month Waivers from CAP Compliance (Until December 31, 2013)

Booneville, AR
Ozark, AR
Paris, AR
Shaver Lake, CA
Teaken Butte, ID
Adairville, KY
Lamar, MO
Bloomington, OH
Knoxville, OH
Lindsay, OK
Gatesville, TX
Hearne, TX